

IN THE UNITED STATES DISTRICT COURT **FILED IN CLERK'S OFFICE**
NORTHERN DISTRICT OF GEORGIA **U.S.D.C. Atlanta**
ATLANTA DIVISION

JUN 22 2010

JAMES N. HATTEN, CLERK
By: *[Signature]* Deputy Clerk

1 THE FLAG COMPANY, INC. a }
2 Georgia Corporation, }
3 Plaintiff, }
4 v. }
5 STEVEN A CHAN, LLC (d/b/a FIVE }
6 STAR FLAGS and/or VIAS), a }
7 California Limited Liability Company, }
8 and STEVEN A. CHAN, a California }
9 resident, }
10 Defendant }

CIVIL ACTION NO:
1:09-CV-1880

DEFENDANTS REQUEST FOR
JUDICIAL NOTICE IN SUPPORT OF
OPPOSITION TO MOTION FOR
SUMMARY JUDGMENT

**DEFENDANTS REQUEST for JUDICIAL NOTICE IN SUPPORT OF
OPPOSITION TO MOTION for SUMMARY JUDGMENT**

The litigants herein vie for the attention and dollars of a buying public that could care less where they get their American flags. They just want inexpensive, good, Made in USA flags. The gravamen of the case lies in the phrase 'farming flag', and whether the exclusively claimed rights to that two-word combination rest in Plaintiff, or as Mr. Chan contends, the phrase is inherently generic to the professionals of the residential real estate brokerage industry, and should not have been afforded trademark status.

1 The basis for taking judicial notice of the requested items is defined for each
2 Series of Exhibits. Each series of exhibits is grouped to convey that particular
3 subjects were published in timeframes relevant to the action.

4 Chan contends it is implausible to deny, with this documentation in the
5 publicly published record, that a) 'farm' and 'farming' encompass general business
6 concepts of 'territories' and 'marketing practices' respectively, b) these concepts
7 existed in the 10 and 15 years prior to the Plaintiff's proprietary rights claims, c)
8 'farming' with US flags was a 'famous', well known practice that existed in the 10
9 and 15 years prior to the Plaintiff's proprietary rights claims.

10 Just what these real estate professionals understood in the two-word
11 combination "farming flag", in the periods prior to the Plaintiff's exclusive rights
12 claims, is a fact that can be considered triable. Was the term as 'generic' as the
13 practice?

14 The articles that comprise the body of this Request for Judicial Notice are
15 evidence real estate professionals' had an understanding of the term 'farming flag'
16 in the periods defined.

17 J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition §
18 17:24 (4th ed. 2010) Section 12:12 reads as follows: "Genericness is a question of
19 fact". It is footnoted thus:

20 Dan Robbins & Associates, Inc. v. Quester Corp., 599 F.2D 1009, 202
21 U.S.P.Q. 961 (Fed. Cir 1985) (whether a term is a generic name is a question of
22 fact; evidence of public understanding of the term may be obtained from "any
23 competent source, such as consumer surveys, dictionaries, newspapers and other
24

1 publications"); Bath & Body Works, Inc. v. Luzier Personalized Cosmetics, Inc. ,
 2 76 F.3d 743, 37 U.S.P. Q.2d 1779 (6th Cir. 1996); Door Systems, Inc. v. Pro-Line
 3 Door Systems, Inc., 83 F.3d 169, 38 U.S.P.Q.2d 1771 (7th Cir. 1996); Committee
 4 for Idaho's High Desert v. Yost , 92 F.3d 814, 39 U.S.P.Q.2d 1705 (9th Cir.
 5 1996); Yellow Cab Co. of Sacramento v. Yellow Cab of Elk Grove, Inc., 419 F.3d
 6 925, 75 U.S.P.Q.2d 1758 (9th Cir. 2005).

7

The 1000 Series Exhibits Pre-dating 1989 and 1994

8

9 Items labeled "Exhibit 1001" through "Exhibit 1080" consecutively (the
 10 "1000 Series Exhibits") includes *published articles from newspapers*. A copy of
 11 each is included, and has further been delivered to Plaintiff's counsel during
 12 Discovery in the Requested Documents Production performed by Mr. Chan on
 13 May 4-7, 2010. In the table below, see with particularity each published news
 14 article's title, author if known, publisher, publication date, geographic location of
 15 publication, and summary of *published text relevant to this matter*.

16

17 These articles cover a time period pre-dating Plaintiff's 1989 and or 1994
 18 exclusive rights claims. Generally, they all associate distributions of US flags at
 19 patriotic times (i.e. Memorial Day or the 4th of July) with residential real estate
 20 brokerage professionals and or realty companies.

21

The Pre-1989 Subset of the 1000 Series Exhibits

1 33 of these requested items reference time periods prior to 1989. 20 of these
2 published accounts refer to participation by *dozens of real estate professionals*
3 *working in wide geographic swathes, across many different companies.*

4 This pre-1989 published article collection includes an article published in
5 2004, describing a 26-year tradition of flag planting started in the late 1970's by
6 Crye-Leike, Realtors (see *Exhibit 1004*). This group of articles comes from all over
7 the United States, and include newspaper published items from the Midwest, and
8 both East and West Coast, and points between. The publications range from major
9 metro newspapers, to small town newspapers, and the newswire services such as
10 the Associated Press.

11

12 ***The 1989-1994 Subset of the 1000 Series Exhibits***

13 42 of the requested items in the 1000 Series Exhibits reference time periods
14 between 1990 and 1994. They again refer to miniature US flags, a patriotic holiday
15 or time, and associate their presence with real estate professionals or companies.
16 Fifteen of these 42 published newspaper articles refer to *many dozens of people*
17 *involved, whose activities spanned wide metropolitan swathes*. As is true of the
18 above subset, the news articles published in this subset are many different
19 accounts. In other words, *these are not the 'same event' reported and published in*
20 *many different newspaper publications*, but rather, each is a discrete published
21 event.

22 This *1000 Series Exhibits* is a collection of news articles covering 16 years
23 pre-dating the plaintiff's exclusive rights claim. The word 'tradition' is used in
24 15% of the articles, and a majority of the articles refer to the event being recurring,
25

1 and spanning multiple years, as of the date of each published item. An
2 overwhelming majority names a *person or persons that allegedly participated in,*
3 *oversaw, or otherwise were eyewitness to the published account.*

4 Mr. Chan requests that this Court take judicial notice of Exhibits 1001
5 through 1079 solely to demonstrate their existence, and that these accounts were in
6 the public domain of the relevant public to this matter, and not for the truth of their
7 contents.

8 Courts may take judicial notice of documents outside of the complaint that
9 are capable of accurate and ready determination by resort to sources whose
10 accuracy cannot reasonably be questioned. Fed. R. Evid. 201(d); Wietschner v.
11 Monterey Pasta Co., 294 F. Supp. 2d 1117, 1109 (N.D. Cal. 2003). Mr. Chan
12 secured these copies of the newspaper archives using student versions of
13 Lexis/Nexis, Dow Jones Factiva, and ProSearch tools at the University of Texas
14 Library (online). The professional versions will likely yield much more.

15 Although it has been held that a court is not required to take judicial notice
16 of newspaper articles, see United States v. Rutgard, 116 F.3d 1270, 1278 (9th
17 Cir.1997), there is authority to the contrary. See Washington Post v. Robinson, 935
18 F.2d 282, 291 (D.C.Cir.1991) (stating "court may take judicial notice of the
19 existence of newspaper articles in the Washington, D.C., area that publicized"
20 "ongoing criminal investigation of local politician.) (citing Agee v. Muskie, 629
21 F.2d 80, 81 n. 1, 90 (D.C.Cir.1980), rev'd on other grounds, 453 U.S. 280, 101
22 S.Ct. 2766, 69 L.Ed.2d 640 (1981))

23 Judge LearnedHand, in holding ASPIRIN generic, stated that the key issue
24 in determining genericness "is merely one of fact: What do buyers understand by

1 the word for whose use the parties are contending?" Bayer Co. v. United Drug Co.,
 2 272 F. 505, 509 (S.D.N.Y.1921).

3 The buying consuming public in this matter are members of the residential
 4 real estate brokerage community. The term at issue is 'farming flag.' The
 5 underlying good for this action is the American flag. By this action, Plaintiff forces
 6 us to ponder and consider what those realtors understood by the contended-for
 7 term "farming flag." Mr. Chan contends the requested items imply obviousness.

8 These items in the 1000 Series Exhibits demonstrate that a buying public
 9 (real estate professionals) had an 'understanding'. It is reasonable to infer these are
 10 published accounts of folks using much mental and physical powers, that planned,
 11 purchased, and distributed, many thousands of miniature US flags per year, in a 16
 12 year time period pre-dating Plaintiff's exclusive rights claim. We contend these
 13 articles point to an existence of triable fact: ergo, what was the relevant purchasing
 14 public's understanding of the phrase 'farming flag' as they undertook these
 15 activities during this period of time. Was 'farming flag' understood to refer to the
 16 products, during this time? Especially, generically and *obviously* so?

17

18 **TABLE LISTING NEWS ARTICLES & SUMMARY**

19

20 Exhibit #	21 Exhibit Description
21 1001	22 Article: "Flag-waving businesses take Old Glory to streets," in The Gazette by Rich Laden, on July 04, 2007 in Colorado Springs, Colorado showing REALTORS farming with American flags since 1988.
23 1002	24 Article: "Mary Sumpter," in The Flint Journal by Steve Jessmore, on July 10, 2005 in Flint, Michigan showing repeated farming with American flags since 1993.

25

26

1 2 3	1003 Article: "Sharing flags promotes patriotism," in The Commercial Appeal by Joyce Friedman, on July 29, 2004 in Memphis, Tennessee showing REALTOR Bunnel farming with American flags since 1994.
4 5 6	1004 Article: "Effort by Lowendes County REALTOR plants 5000 American flags for 4th," in The Associated Press Newswire by Associated Press, on July 04, 1997 in Columbus, Mississippi showing REALTORS farming with American flags from 1987.
7 8	1005 Article: "Dance class lined up at center," in The Press Enterprise Riverside by Virginia Hartford, on July 23, 1993 in Riverside, California showing REALTORS using American flags in farming since 1982.
9 10	1006 Article: "Realtor in the News," in The Washington Times by Jennifer Merill, on June 26, 1992 in Washington DC, showing nationwide REALTORS' farming flags usage since 1985.
11 12	1007 Article: "Firm helps spread patriotism," in The Denver Post by Steve Lipsher, on July 05, 1991 in Denver, Colorado showing usage in 1991.
13 14	1008 Article: "Flag Seller Recounts Burning," in The St. Louis Post-Dispatch by Tom Uhlenbrock, on July 02, 1989 in St. Louis, Missouri showing realty firm farming with American flags since 1988.
15 16 17	1009 Article: "Downing of Iranian airliner by US ship debated Series: LETTERS," in The St. Petersburg Times by Samuel Jensen, on July 10, 1988 in St. Petersburg, Florida showing American flags used in farming in 1988 by REALTORS.
18 19 20	1010 Article: "Fourth was full of fun, patriotism," in The St. Petersburg Times by Daryle Glenn Brown, on July 05, 1988 in St. Petersburg, Florida showing REALTORS farming use in 1988 of American flags.
21 22 23	1011 Article: "Area Residents See Stars and Stripes at Dawn," in The St. Louis Post-Dispatch by Carla Barksdale, on July 02, 1988 in St. Louis, Missouri showing flags used in farming since 1985 in St. Louis, MO
24 25 26	1012 Article: "Local Company Provides flags for July 4th Holiday," in The Chicago Daily Herald by Kwame Patterson, on July 03, 2004 in Chicago, Illinois showing American flags used by REALTORS for

	farming since 1984.
1013	Article: "Arvida sponsors Fourth of July parade," in The Boca Raton News by Staff, on June 25, 1989 in Boca Raton , Florida showing realty company using the American flags farming in 1989.
1014	Article: "Panhandle city reverses itself, More Florida News" in The Associated Press by Associated Press, on June 30, 2000 in Callaway, Florida showing a REALTOR farming with the American flags since 1990 or before along rights of way in Callaway, Florida.
1015	Article: "Cheapening the Flag" in The Austin American Statesman by David Torrence, on July 15, 1990 in Austin, Texas showing a REALTOR farming with made in China flags and getting negative press in 1990.
1016	Article: "City goes 4th on a festive day," in The Chicago Sun Times by Larry Finley, Jim Merriner, on July 05, 1989 in Chicago, Illinois showing REALTOR Kamberos farming with American flags in 1989.
1017	Article: "Home Sales Dip From Year Ago," in The Omaha World-Herald by Chris Olson, on June 27, 1993 in Omaha, Nebraska showing REALTOR American flag farming in Omaha, NE, since 1989.
1018	Article: "Agency expands flag giveaway," in The York Daily Record by Staff, on April 30, 1994 in York, Pennsylvania showing CB realty farming over multiple years with American flags prior to 1994.
1019	Article: "Public Forum Use of Flag as a Sales Gimmick is Desecration," in The Los Angeles Daily News by Lisa Crowell, on July 10, 1995 in Los Angeles, California bemoaning made in Taiwan American flags in farming prior to 1994.
1020	Article: "5,000 flags donated to residents in Miss.," in The Saturday State Times/Morning Advocate by Staff, on July 05, 1997 in Columbus, MS showing REALTOR West farming with American flags since 1987.
1021	Article: "Early Alarm Starts Fourth," in The Omaha World-Herald by Michael Kelly, on July 03, 2001 in Omaha, Nebraska showing REALTOR Mary Rae Wolf's use of farming flags since at least 1991

1022	Article: "Local Real Estate Agent and Boy Scout Troop Brighten Neighborhood Streets with Flags on the Fourth of July," in The Business Wire by Barbara Jean Pickens, on July 01, 1998 in Wichita, Kansas showing REALTOR Barbara Jean Pickens longtime farming using American flags since 1987.
1023	Article: "Giving the Gifts of Freedom," in The Associated Press by Theassa Tuohy, on July 04, 1989 showing REALTOR Kamberos farming with American flags since 1987 in Chicago, and Marietta Redding, another real estate agent using them in Milwaukee in 1989.
1024	Article: "Flags, fireworks fly in July Fourth fun," in The Austin American Statesman by Staff, on July 05, 1989 in Austin, Texas substantially publishing item 23 hereinabove
1025	Article: "Feeding Frenzy: Buyers, Sellers, Scramble for Share of OC's Wild Real Estate Market," in The Orange County Register on August 07, 1988 in Orange County, California showing use of farming flags in 1988
1026	Article: "Super Sellers // Top Agents Tell Their Secrets," in The Chicago Sun Times by Kay Serverinsen, on December 06, 1992 in Chicago, Illinois showing REALTORS farming with American flags in Chicago in 1992.
1027	Article: "Realtor Shares the Red, White and Blue," in The Colorado Springs Gazette Telegraph by Staff, on July 03, 1993 in Colorado Springs, Colorado showing agent Kaspar farming with American flags in 1992.
1028	Article: "Senate War Hero Criticizes President for Flag Stance," in The Los Angeles Daily News by Mike Robinson, on June 15, 1990 in Los Angeles, California showing real estate company put out 3000 American flags in 1990 in Northfield, MN.
1029	Article: "Flag endures even the gutter," in The Houston Chronicle by Thom Marshall, on July 05, 1992 in Houston, Texas showing American flags used in farming in 1992
1030	Article: "County Scan," in The Orange County Register on July 09, 1993 in Orange County, California showing real estate agent farming with American flags in La Habra, CA in 1993
1031	Article: "Northside Notes: Rumblings and Scuttlebutt in our Community," in The Atlanta Journal by Staff, on June 11, 1998 in

	Atlanta, Georgia showing farming use of American flags by REALTORS in Atlanta since 1994
1032	Article: "Real flag-wavers: Immigrants spread Stars and Stripes around to alert others to Freedoms," in The Arizona Daily Star by Jill Jorden Spitz, on July 04, 2000 in Tucson, Arizona showing REALTOR use of USA flags for farming flags in Tucson since 1990
1033	Article: "Coldwell Banker Grabs for More Market Share Opens Offices, Plans Ad Drive," in The Record by Warren Boroson, on June 22, 1989 New Jersey showing Coldwell Banker's real estate marketing use of US flags around patriotic holidays in 1989
1034	Article: "Free and easy // Suncoast pledges itself to having fun," in The St. Petersburg Times by Karl Vick et al, on July 05, 1989 in Tampa Bay, Florida showing Coldwell Banker putting out 25,000 flags in the Tampa Bay area in 1989.
1035	Article: "Chef Vongerichten to Teach Special Cooking Course," in The Journal Record by Joan Gilmore, on July 12, 1990 Oklahoma showing two different realty agencies farming with American flags in the Oklahoma City area in 1990
1036	Article: "Silvertree will be Decorated," in The Tulsa World by Staff, on June 29, 1994 in Tulsa, Oklahoma showing REALTOR use of the American flag in her 'farm area' in Tulsa, Oklahoma in 1994 and before
1037	Article: "Waves of Flags," in The Pantagraph by Staff, on July 04, 1994 in Bloomington, Illinois showing American flag farming by REALTORS in the area in 1994
1038	Article: "Information on Recycling Available," in The Tulsa World by Staff, on July 15, 1994 in Tulsa, Oklahoma showing Bruce Berman, REALTOR, farming with American flags in the Walnut Creek area
1039	Article: "Thanks to our Realtors for Fourth of July Flags" in The Pantagraph by Pat Nesmith, on July 16, 1994 Illinois thanking REALTORS for using farming flags in the area
1040	Article: "American Flags will be Waving at Many Community Residences," in The Tulsa World by Staff, on July 02, 1995 in Tulsa, Oklahoma showing farming by realty company using American flags before 1994

1041	Article: "Hence Fourth," in The Pantagraph by Bill Flick, on July 05, 1996 in Bloomington, Illinois showing REALTOR use in 1996, and implying prior use participation in the Coldwell Banker farming flag program prior to 1994.
1042	Article: "Flags fly in wave of support," in The Plain Dealer by Staff, on January 17, 1991 in Cleveland, Ohio showing clear definition of American flag use by REALTORS in the Cleveland area.
1043	Article: "Burning Old Glory fires up flag fliers," in The Worcester Telegram and Gazette by Nancy Sheehan, on July 05, 1989 Massachusetts showing RE/MAX REALTOR use of American flag for farming in Northboro in 1989
1044	Article: "Boy Scouts to Deck Neighborhood With Flags," in The Omaha World-Herald by Rich Janda, on July 04, 1990 in Omaha, Nebraska showing farming with American flags by real estate agent in 1990
1045	Article: "A 4th of July for all veterans," in The Colorado Springs Gazette Telegraph by Editor, on July 04, 1991 in Colorado Springs, Colorado showing realty company farming with American flags in Newton, Iowa, in 1991
1046	Article: "Woman's arm severed by washing machine," in The Washington Times by Wire Dispatch, on July 04, 1991 in Washington DC, repeating item 45
1047	Article: "Housing Starts up 11% in May," in The Omaha World-Herald by Staff, on June 28, 1992 in Omaha, Nebraska showing 26,000 American flags used by REALTORS throughout Omaha in 1992, and stating prior years' farming
1048	Article: "We've come a long way, baby – like by \$1,000s," in The Pantagraph Bloomington by Bill Flick, on July 22, 1992 in Bloomington, Illinois showing REALTORS putting American flags out on the 4th
1050	Article: "A Burning Issue Who desecrates the flag? The list is long," in The San Diego Union-Tribune by Scott LaFee, on July 01, 1989 in San Diego, California showing plastic flags planted on lawn by real estate agents in 1989
1051	Article: "A Red White and Blue Mission," in The Orange County Register by Staff, on July 03, 1996 in Orange County, California

	referencing REALTORS use of flags for farming in Brea and La Habra, California, since 1994.
1052	Article: "Flags and Fireworks," in The St. Petersburg Times by Barbara Behrendt et al, on July 05, 1988 in St. Petersburg, Florida Coldwell Banker REALTORS use 25,000 American flags
1053	Article: "Gulf War Prompts Town's First Parade in 25 Years," in The Associated Press by Greg Smith, on July 03, 1991 in Newton, Iowa real estate company sponsors American flags along route in Newton, Iowa
1054	Article: "This flag talk burns me up," in The St. Petersburg Times by Matt Lorenz, on July 23, 1995 in St Petersburg, Florida references Lambrecht realty agency's American flags from "other year"(s) in "lawns"
1055	Article: "X-files meets N. Texas Skeptics: the truth is doubt there," in The Dallas Morning News by Larry Powell, on July 10, 1998 in Dallas, Texas intimating REALTORS have used American flags for farming for many years
1056	Article: "Celebrate with events that say thank you," in The Real Estate Today by Kerry Kidwell, on January 01, 1995 showing at paragraph 2, implying that some farming methods are passé or old hat,, including Fourth of July flags.
1057	Article: "Realtor Proves thinking small can bring big results, big bucks: Dottie Arehart carves niche in Alexandria's Park Fairfax" in The Washington Business Journal by Leslie Aun, on April 08, 1991 Virginia/DC showing classical REALTOR training and farming in 1991
1058	Article: "A banner day," in The Dallas Morning News by Staff, on June 30, 1990 in Dallas, Texas showing farming flags put out on the 4th in 1990
1059	Article: "Realty Firm giving back with flags," in The Northwest Florida Daily News by Jill Nolin, on June 28, 2006 Florida showing ERA Realty farming with American flags since 1989
1060	Article: "Patriotism, Celebration Span Island this Year, Veterans wave the flags with more emphasis," in The Newsday by Susan Howard, on July 05, 1989 in Long Island, New York showing CB realty company putting out 20,000 flags in Long Island in 1989 for the 4th.

1061	Article: "Only in LA," in The Los Angeles Times by Steve Harvey, on May 26, 1989 in Los Angeles, California showing competing REALTORS squabbling in public over who gets to farm on Memorial day in specific neighborhood, 1989
1062	Article: 'People in Westside Real Estate," in The Los Angeles Times by Staff, on July 21, 1985 in Los Angeles, California showing REALTORS in Beverly Hills, California farming with flags on 4th of July, 1985
1063	Article: "People in Westside Real Estate," in The Los Angeles Times by Staff, on July 22, 1984 in Los Angeles, California showing REALTORS putting out BEAUTIFUL fabric farming flags in Beverly Hills area, Los Angeles, California
1064	Article: "People in Westside Real Estate," in The Los Angeles Times by Staff, on August 03, 1986 in Los Angeles, California showing Merrill Lynch Realty farming with American flags in the Marina del Rey area in 1986
1065	Article: "Patriots going Fourth," in The Boca Raton News by Carol L Lewis, on June 30, 1989 in Boca Raton, Florida showing REALTORS farming with American flags, from multiple realty agencies in the Boca Raton vicinity
1066	Article: "Homestyle Gimmicks Local Realtors Fight Competition with Clever Attention Grabbers," in The Sun-Sentinel by Mary Ellen Hopkins, on January 10, 1996 in Fort Lauderdale, Florida showing strong inference of multiyear usage extending prior to 1994
1067	Article: "The flag lady flies again," in The Realty Times on July 03, 1998 see also item 22 above, showing Wichita, Kansas farming flag usage since 1987
1068	Article: "Neighborhood Salutes Anonymous Flag Bearer," in The Roanoke Times by Staff, on July 05, 1990 in Roanoke, Virginia showing REALTOR farming with American flags in 1990 in Virginia
1069	Article: "Agency to wave thousands of flags," in The Gazette Cedar Rapids Iowa City by Kathleen Carlson, on June 13, 1997 in Tri City showing realty agency farming with American flags at 4th of July since 1991
1070	Article: "Patriotism Now a Driving Force," in The Portland Press

	Herald by Joshua L Weinstein, on July 02, 2002 in Portland, Maine showing REALTOR Kathy Duca using American flags for farming since 1992-1993
1071	Article: "Planting a new crop of flags," in The Gazette Cedar Rapids Iowa City by Melanie Kimbler, on June 15, 1998 in Tri City showing realty agency farming with American flags at 4th of July since 1991
1072	Article: "Real Estate Company Distributed Stars and Stripes – on the sly," in The Miami Herald on July 06, 1989 in Miami, Florida showing REALTORS farming with over 10,000 flags in Florida in 1989
1073	Article: "NW Dade Gets Ready for Fun on the Fourth." in The Miami Herald by Staff, on July 01, 1990 in Miami, Florida showing CB realty to farm with 12000 American flags 4th of July 1990
1074	Article: "Freedom's ring, Wedding rings highlight celebration of fourth," in The Washington Post by Amy Goldstein, on July 05, 1997 in Washington DC, showing Bob Flagg having used flags for farming in real estate in 1987
1075	Article: "Celebrate America With Coldwell Banker," in The Washington Post on June 30, 1990 in Washington DC, advertisement by Coldwell Banker
1076	Article: "Agents Put Out Flags for Independence Day," in The Inside Tucson Business by Cheri Cross, on July 10, 1995 in Tucson, Arizona showing realty company using American flag for farming on the 4th since 1990.
1077	Article: "Celebrate America with Coldwell Banker," in The Free Lance-Star on June 03, 1989 in Fredericksburg, Virginia showing Coldwell Banker farming with American flags in 1989.
1078	Article: "U.S. Flag is nobody's billboard," in The St. Petersburg Times by A. Scott Davis, on July 16, 1991 in St. Petersburg, Florida letter the writer bemoans realty company advertising with American flags stuck in "the ground in front of people's homes."
1079	Article: "Nell Anne hunt, Irving/Las Colinas office break flag distribution record," in The Dallas Morning News by Staff Writer, on September 29, 2007 in Dallas, Texas showing realty office using American flags for farming since 1993.
1080	Article: "Coach Realtors Distribute 12,000 Flags for Independence

1 Day," in The Long Island Business News by Staff, on June 27, 1993
2 in Long Island, New York realty company claims 'delivering flags
3 to the Long Island community for many years'.
4
5

6 ***The 2000 Series Exhibits: Years 1995-2000, and Post 2000***
7

8 Items labeled "Exhibit 2001" through "Exhibit 2055" consecutively and
9 excluding 2051 (the "2000 Series Exhibits") includes *published articles from*
10 *newspapers* with references relevant to this matter dating from 1995 to date. A
11 copy of each is included, and has further been delivered before to Plaintiff's
12 counsel during Discovery, within the Requested Documents Production performed
13 by Mr. Chan on May 4-7, 2010. In the table below, see with particularity each
14 published news article's title, publisher, publication date, geographic location of
15 publication, and summary of published text relevant to this matter.

16 These articles cover a time period *pre-dating Plaintiff's 2000*
17 *Incontestability filing*, and to-date. Generally, they all associate distributions of US
18 flags at patriotic times (i.e. Memorial Day or the 4th of July) with residential real
19 estate brokerage professionals and or realty companies. They demonstrate the
20 continued tradition set in the period demonstrated by the 1000 Series Exhibits.

21
22 ***The Pre-2000 Subset of the 2000 Series Exhibits***

23 26 of these requested items reference time periods between 1995 and 2000.
24 They are similar in nature to the 1000 Series Exhibits except for time period.
25
26

1 *The Post 2000 Subset of the 2000 Series Exhibits*

2 29 of the requested items in the 2000 Series Exhibits reference time periods
 3 since the year 2000. They again refer to miniature US flags, a patriotic holiday or
 4 time, and associate their presence with real estate professionals or companies.

5 These articles are similar in nature to the 1000 Series of Exhibits, except for
 6 the time period covered.

7 Importantly, as above, these are not the 'same event' reported and published
 8 in many different newspaper publications, but rather, each is a discrete published
 9 event.

10 This 2000 Series Exhibits is a collection of news articles covering the last
 11 decade. An overwhelming majority names a person or persons that allegedly
 12 participated in, oversaw, or otherwise were eyewitness to the published account.

13 Mr. Chan requests that this Court take judicial notice of Exhibits 2001
 14 through 2055, solely to demonstrate their existence, and that these accounts were
 15 in a public relevant to this matter, and not for the truth of their contents.

16

17 **TABLE LISTING OF NEWS ARTICLES FOR THE**
 18 **2000 SERIES EXHIBITS**

19

20 Exhibit #	21 Exhibit Description
21 2001	22 Article: "Thousand flags show patriotism on holiday", in The St. 23 Petersburg Times by Lawrence Scaduto, on July 04, 2001 in St 24 Petersburg, Florida; showing REALTORS farming with USA flags 25 from 1998-2001
23 2002	24 Article: "Red, White & Boom Wasn't Blast for Everyone," in The 25 Columbus Dispatch by Cindy Williams, on July 13, 1997 in 26 Columbus, Ohio; showing 'shame on REALTOR using made in

	China flags' in 1997
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26	2003 Article: "Series: This is the third in an occasional series focusing on the issue facing real estate agents in a changing industry," in The Newsday by Joe Catalano, on August 20, 1999 in New York, New York; see Joyce Jurgensen 2004 Article: "Patriotic Tradition; Neighborhoods get dressed up for the Fourth of July," in The South Bend Tribune by Virginia Ransbottom, on July 06, 2007 in South Bend, Indiana; discussing tradition 2005 Article: "PJS not giving up fair assessment of county candidates," in The Peoria Journal Star by Dave Beckman, on November 02, 2000 in Peoria, Illinois; Mr. Beckman is a REMAX agent in the Peoria area 2006 Article: "Patriotism on parade," in The Omaha World-Herald by Staff Writers, on July 05, 2003 in Omaha, Nebraska; showing midnight farming with USA flags REALTOR 2007 Article: "Parade works on two routes," in The Press-Enterprise by Bob Pratte, on July 12, 2002 in Riverside, California; showing farming with American flags by REALTOR in 1989 2008 Article: "Friday Night Lights Illuminate a Spirit," in The Oregonian by Abby Haight, on September 15, 2001 Oregon; REALTORS had leftover American flags 2009 Article: "Another Fourth, another invasion of plastic flags," in The Rocky Mountain News by Judy Wartell, on July 12, 1998 in Denver, Colorado; bemoaning made in Taiwan flags by REALTOR 2010 Article: "For love of flag and country," in The SC by The Herald Rock Hill, on September 08, 2002 in Rock Hill, South Carolina; showing real estate agent Pam Morrell putting out thousands of flags every year, for years 2011 Article: "Freebies help open, close deals," in The Milwaukee Journal Sentinel by Michele Derus, on October 11, 1998 in Milwaukee, Wisconsin; showing flags and real estate agent promotion in Milwaukee 2012 Article: "Waving the flag for your business," in The Associated Press Newswires by Joyce M. Rosenberg, on July 12, 2000 in Rutherford, New Jersey; showing farming flag usage by REALTORS in New Jersey

1	2013	Article: "Free Gadgets, other giveaways can make company stand out," in The St. Louis Post Dispatch by Joyce Rosenberg, on July 17, 2000 in St. Louis, Missouri; publishing the item in 12 hereinabove
2	2014	Article: "Fairfield blossoms with flags on patriotic holidays," in The Virginian-Pilot & Ledger Star by Sandra Pennecke, on November 09, 2008 in Fairfield, Virginia; showing REALTORS farming with US flags on patriotic holidays
3	2015	Article: "It's a Grand Old Flag," in The Record by Martin A. Van Dyk, on August 02, 1995 New Jersey; thanking REALTORS for putting out American flags
4	2016	Article: "VFW Auxiliary Honors Patriotic Action," in The Tulsa World by Staff, on July 31, 1996 in Tulsa, Oklahoma; showing REALTOR usage of 1000 farming flags in 1996
5	2017	Article: "Thanks for the Flags" in The State Journal-Register by Pat Hayes, on July 23, 2002 in Springfield, Illinois; thanking REALTOR for the farming and the flag
6	2018	Article: "Taking Offense at Realtor's Use of Flag for Advertising," in The Washington Post by Lelia Loban Lee, on July 19, 2001 in Washington DC; expressing outrage at US flags used by REALTORS for advertising
7	2019	Article: "Sula Pettibon Column," in The Herald Rock Hill by Sula Pettibon, on July 08, 2001 in Rock Hill, South Carolina; showing multi-year use of farming flags in 2001 and before
8	2020	Article: "It would be nice to see more US flags flown," in The State Journal-Register Springfield by Tom and Leanne Blackburn, on July 14, 2000 in Springfield, Illinois; thanking REALTOR for farming the subdivision with USA flags
9	2021	Article: "Flags disallowed over advertising issue," in The Associated Press by Staff, on July 04, 2001 in Kearney, Nebraska; asserting realty companies' dispute over use of farming flags
10	2022	Article: "What's Red White and Blue All Over? Flag-dotted Treemont, Thanks to Realty Agent," in The Richmond Times-Dispatch by Lucas Wall, on July 06, 1998 in Chesterfield County; showing competing realty company use over several years
11	2023	Article: "Jackson Park home to history," in The Milwaukee Journal Sentinel by Georgia Pabst, on June 27, 1999 in Milwaukee,

1	Wisconsin; showing REALTOR Sharon Stehmeier farming with flags, implying multiple years past
2	2024 Article: "Patriotic Gesture," in The Press-Enterprise Riverside by Lillian M Popko, on July 10, 1999 in Riverside, California; thanking REALTOR for flags in subdivision, implying multi-year use in 1999.
3	2025 Article: "Letters" in The Atlanta Journal by Editor, on July 10, 1995 in Atlanta, Georgia; showing real estate agent use in 1995 in the Atlanta area.
4	2026 Article: "What idea is being sold here?" in The Press Enterprise Riverside by Andy McCue, on July 09, 2000 in Riverside, California; arguing about plastic American flags used by REALTORS
5	2027 Article: "Fourth of July anxieties," in The Sarasota Herald-Tribune by David Grimes, on July 04, 2005 in Sarasota, Florida; arguing about the meaning of the REALTORS plastic American flags in all the yards
6	2028 Article: "A star spangled banning – Mini US flags don't fly with Fox Creek homeowners board," in The Peoria Journal Star by Mike Hinken, on May 26, 2001 in Morton, Illinois; quoting real estate agent he has put flags in front of homes on the 4th for 'years'
7	2029 Article: "Your Turn," in The Providence Journal by Stephen J Ryan, on June 15, 2001 in Providence, Rhode Island; disgusted at real estate agent putting flags all over neighborhood
8	2030 Article: "Red, white and blue –all shades of splendor," in The Orange County Register on July 05, 2001 in Orange County, California; bemoaning REALTORS business cards attached to flags used in a marketing way throughout the neighborhood
9	2031 Article: "Real Estate Agents Leads Charge to Fire Up Others in Business," in The Oregonian by Ted Katauskas, on July 03, 2003 Oregon; real estate agent farming with American flags on Flag Day 2003
10	2032 Article: "Profiting from patriotism," in The Press Enterprise – Riverside by Bernard H Duffy, on April 17, 2003 in Riverside, California; bemoaning REALTOR supplied American Flags throughout the neighborhood.
11	2033 Article: 'Take Time to Remember Fallen Heroes," in The Los
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1	Angeles Daily News by Carol Rock, on May 27, 2007 in Los Angeles, California; speaks of REALTORS placing American flags on lawns at Memorial Day
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3	2034 Article: "Texans Celebrate Holidays with Parades, Willie's Picnic," in The Houston Chronicle by Associated Press, on July 05, 1995 in Houston, Texas; showing real estate agents placed small US flags in front of homes in Dallas, Texas
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5	2035 Article: "He carries little flags, big message," in The Tampa Tribune by Steve Otto, on May 23, 2001 in Tampa, Florida; showing REALTOR Wolf farming with American flags in Tampa in 2001
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7	2036 Article: "How come others have to remind us to be patriotic," in The Pantagraph by William Hutchison, on June 24, 2001 in Bloomington, Illinois; expressing concern over real estate agent provided flags
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9	2037 Article: "Evolution of the US Flag," in The Journal Record by David Page, on July 03, 2001 Oklahoma; showing real estate company farming with Made in Taiwan American flags
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11	2038 Article: "Community advocate plans Arizona move," in The Press-Enterprise Riverside by Virginia Harford, on October 26, 2001 in Riverside, California; showing Barbara Bayus, long-time REALTOR's use of farming flags will be missed by recipients
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13	2039 Article: "Clubs and Organizations," in The St. Petersburg Times by Hernando, on August 18, 2002 in St Petersburg, Florida; showing the Keller Williams realty agency using American flags for the 4th of July in Hernando
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15	2040 Article: "Palm Coast man says thanks with flags," in The Daytona Beach News Journal by Millie Lapidario, on July 03, 2004 in Palm Coast, Florida; showing REALTOR using flags for farming 2000-2004
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17	2041 Article: "The real desecration Ban on flag burning a betrayal of US flags," in The San Diego Union-Tribune by Editor, on June 26, 2006 in San Diego, California; showing REALTOR usage of American flags for marketing
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19	2042 Article: "It's a good day when Willie asks for seconds," in The Pantagraph, by Bill Flick, on July 14, 2006 in Bloomington, Illinois; showing REALTORS tired of the complaints from using
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	American flags in marketing
1 2 3 2043	Article: "Around Crownsville: Flag Patrol flies high once again," in The Annapolis Capitol by Elaine Nagey, on July 11, 2003 in Annapolis, Maryland; showing Hoffman realty agency farming with USA flags since 1997
4 5 2044	Article: "Business of the fourth," in The Napa Valley Register by Jennifer Huffman, on June 29, 2007 in Napa Valley, California; showing REALTOR upgrading flags for his upscale farm area
6 7 2045	Article: "Realtor's flag give-away draw mixed reviews," in The KDVR by Charlie Brennan, on July 03, 2009 Colorado; showing multiyear use by REALTOR in Colorado
8 9 10 2046	Article: "Flagging Interest," in The Village Voice by Larry Rochelle, on August 08, 1995 in New York, New York; showing REALTORS planting small American flag in yards in Overland Park, Kansas
11 12 13 2047	Article: "Innovations for heightened realty," in The Toledo Blade by Mary Beth McLaughlin, on March 16, 1997 in Toledo, Ohio; showing REALTOR using American flags for farming in Ohio in 1997 and before
14 15 16 2048	Article: "Independence Day; Realtors to plant flags," in The York Daily Record by Staff, on June 28, 2004 in York, Pennsylvania; showing 20,000 farming flags being used by REALTORS in the County in 2004
17 18 19 20 2049	Article: "Flags flutter for the 4th," in The Walton Sun by Joyce Owen, on June 30, 2007 in Santa Rosa Beach, Florida; showing ERA Realty farming with American flags
21 22 23 24 25 2050	Article: "Flag day (Stovroff Realty agents put flags on lawns form Memorial Day, Labor Day and Flag Day)," in The Business First-Buffalo by Jim Fink, on July 16, 2001 in Buffalo, New York; showing 10000 USA flags used by REALTORS in Buffalo for farming the 4th of July
26 21 22 23 24 25 2052	Article: "Patriotic Spirit Begins at Home," in The Washington Times by Amy Doolittle, on July 03, 2004 Washington; showing realty company using American flags for farming since 1996.
26 21 22 23 24 25 2053	Article: "Company isn't 'flagging' in helping country show patriotism," in The Brenham Banner Press by Bud Chambers, on June 25, 2005 in Brenham, Texas; showing REALTORS using

	American flags for farming since 1996.
2054	Article: "The Nation; Flag Battle Not so Proudly Hailed; patriotic gesture or just advertising?", in The Los Angeles Times by David Pierson, on July 19, 2006 in Los Angeles, California; showing Century 21 agents in better dispute over tradition of farming with American flags with HOA.
2055	Article: "Realtors to plant flags," in The York Daily News by Staff, on June 26, 2003 in York, Pennsylvania; showing CB realty company farming with USA flags in 2003

The 3000 Series Exhibits: The Farming Business

The 3000 Series Exhibits is a collection of 21 items from industry focused trade publications, namely the National Association of Realtors and the ilk, in print, archive, and digital archive forms. Additionally, industry focused book excerpts are included from the early 1980's. The basis for the judicial notice is that these show real estate professionals understood the use of 'farm', 'farms', and 'farming' for the 15 year period pre-dating the Plaintiff's exclusive rights claims. For example, a book was published by a Mr. James EA Lumley, entitled '*Microcomputers in Real Estate*', published about the time of the Apple 11e classic computer contains a section exhorting setup of a 'farming program', See Exhibit 3016 p2. published in 1984. From Mr. Chan's scan of the library shelves, books were particularly focused at 'training' the reader how to be successful as a real estate agent. (*The terms farm and farming are also dictionary terms from trade*

1 *dictionaries circa 1983 and 1984, and are covered below in the 6000 Series*
 2 *Exhibits.)* In general terms, Mr. Chan seeks judicial notice for these 3000 Series
 3 Exhibit items to demonstrate these published items were in the public domain in
 4 the residential real estate industry in the relevant time frame (prior to and
 5 contemporaneous with the Plaintiff's exclusive rights claims.

Exhibit #	Exhibit Description
3001	Article: "Anatomy of a Top Performer," in The Real Estate Today by Dr. Michael Abelson, on October 01, 1993.
3002	Article: "Blend your farming techniques; new technology and good old-fashioned service give you market dominance," in The Real Estate Today by Jim Turney, James Russel, on January 01, 1990.
3003	Article: "Prospecting the Home Real Estate Market," in The Real Estate Review by Massad, Victor J., on March 01, 1995.
3004	Article: "Take the chill out of cold calls," in The Real Estate Today by Robert E. Taylor, Jr, on September 01, 1995.
3005	Article: "How to cash in on direct mail," in The Real Estate Today by Robert Liparulo, on July 01, 1995.
3006	Article: "Top Producers: smart investments yield big profits," in The Real Estate Today by David Hoag, on February 01, 1994.
3007	Article: "Write all about it!" in The Real Estate Today by Terri Murphy, on October 01, 1991.
3008	Article: "A guide to establishing yourself in a new market," in The Real Estate Today by William J. KaDell, on May 01, 1995.
3009	Article: "Coaching a seasoned team takes repetition," in The Real Estate Today by Christina Hoffman, on April 01, 1991.
3010	Article: "Pair up for success; would a selling partner improve your sales figures?" in The Real Estate Today by Lee R. Hess, on March 01, 1991.
3011	Article: "Make the most of referral business," in The Real Estate Today by Shelley Ball, on April 01, 1990.
3012	Article: "Bring software solutions in for a landing," in The Real Estate Today by David O. Arnold, on November 01, 1991.
3013	Article: "Eye Openers for Bored Sales Meetings," in The Real Estate Today by Marilyn R. Lightner, on March 01, 1992.

1	3014	Article: "Farming a Neighborhood," in The Realtor Magazine by Ralph R. Roberts, on September 01, 2000.
2	3015	Article: "Building Relationships," in The Realtor Magazine by G. M. Filisko, on October 01, 2007.
3	3016	Article: "Microcomputers in Real Estate," in The Prentice-Hall by James E.A. Lumley, in 1984.
4	3017	Article: "Land Rush," in The McGraw-Hill Book Company by Mark Stevens, in 1984.
5	3018	Article: "Real Estate Prospecting: Strategies for Farming Your Markets, 2nd Edition," in The Real Estate Education Company by Joyce L. Caughman.
6	3019	Article: "Your Successful Real Estate Career, Thrid Edition," in The American Management Association by Kenneth W. Edwards, in 1997.
7	3020	Article: "California Real Estate, Classifieds," in The California Real Estate Magazine in June, 2007.
8	3021	Article: "Farming FlagsTM," in The REALTOR Magazine by The Flag Company, in May, 2007.

The 4000 Series Exhibits: The Farming Tools

Mr. Chan presents to the Court in the 4000 Series Exhibits newspaper articles gleaned from the electronic pay-for-archive services LexisNexis, ProQuest and others offered to the general student population at the University of Texas in Austin via the on-line library. These articles, as the other newspaper articles included above, *define specific persons associated with residential real estate engaging in specific activities in their marketplace*. This association takes the form of giveaways ranging from watermelons, calendars, magnets, to pumpkins. See

1 Exhibit 4021, and also include recalls of same. The 20 items were published from
 2 1977 to date. Mr. Chan requests judicial notice of these items as they portray real
 3 estate agents' creative use of other 'farming tools'. (Indeed, 'farming tools' is a
 4 'category' in the classified sections of trade publications.) These items assist in Mr.
 5 Chan's presentation to the court as to the fact that these published items were in the
 6 public domain of the real estate profession. We do not ask the court to take as fact
 7 what was reported, only that the reporting occurred.

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10 **TABLE OF NEWSPAPER ARTICLES DEMONSTRATING**
 11 **USE OF OTHER FARMING TOOLS**

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Exhibit #	Exhibit Description
4001	Article: "Westside People in Real Estate," in The Los Angeles Times by Staff, on November 17, 1984 in Los Angeles, California. Irene Dazzan using pumpkins to farm.
4002	Article: "Real Estate Becomes a \$1.2 Billion Industry," in The Los Angeles Times by Martha Willman, on November 06, 1977 in Los Angeles, California. Real estate broker distributing pumpkins for Halloween.
4003	Article: "Slates Pumpkin Fest," in The Los Angeles Times on October 25, 1980 in Los Angeles, California. Realty Office giving away pumpkins.
4004	Article: "Scene and heard," in The Washington Post by Geneva Collins, on January 17, 2008 in Washington DC. Llewellen using pumpkins and apple butter.
4005	Article: "Family in Growth Field," in The Toledo Blade by Donna Cottier, on October 25, 1983 in Toledo, Ohio. REALTORS purchasing "advertising pumpkins" to farm.
4006	Article: "Books collected for Christmas," in The Colorado Springs Gazette Telegraph on November 12, 1989 in Colorado Springs,

1	Colorado. REALTORS giving out pumpkins.
2	4007 Article: "Super Sellers," in The Chicago Sun Times by Kay Severinsen, on December 06, 1992 in Chicago, Illinois. REALTORS using pumpkins and other tools to farm.
3	4008 Article: "Real Estate Notes," in The Washington Post by Staff, on October 13, 1990 in Washington DC. Realtors give away 5,000 pumpkins.
4	4009 Article: "Real Estate Santas," in The Washington Times by Anita D. Trasatti, on December 23, 1994 in Washington DC. REALTORS using pumpkins since 1979.
5	4010 Article: "The lake effect," in The Milwaukee Journal by Kathy Cave, on October 29, 1996 in Milwaukee, Wisconsin. REALTORS using candy as farming tool.
6	4011 Article: "The Reality: making your name known," in The Virginian-Pilot and Ledger-Star by Loukia Louka, on March 22, 1997 in Norfolk, Virginia. REALTOR using pumpkins to farm.
7	4012 Article: "use Me! Try Me! No, Me! Even though they can't measure its effectiveness, some Realtors are sold on self-promotion," in The Los Angeles Times by Julie Tamaki, on November 28, 1999 in Los Angeles, California. REALTORS using various tools, including pumpkins to farm.
8	4013 Article: "The Westside Real-Estate Wars.," in The Los Angeles Times by Nina J. Easton, on January 31, 1988 in Los Angeles, California. Fred Sands using 100,000 pumpkins.
9	4014 Article: "Mike Glickman's Post Bankruptcy Life Real Estate," in The Los Angeles Times by Patrice Apodaca, on November 06, 1990 in Los Angeles, California. Glickman using pumpkins to farm.
10	4015 Article: "Work Hard and Be Realistic to Sell Your House Yourself," in The Los Angeles Times by Ron Galperin, on July 07, 1992 in Los Angeles, California. Pumpkin farming used by REALTORS.
11	4016 Article: "Business Briefs," in The Almanac on October 23, 2002 in Menlo Park, California. Cashin Company REALTORS using pumpkins.
12	4017 Article: "Realty Firm to Present Two Tons of Pumpkins," in The Los Angeles Times on October 23, 1977 in Los Angeles, California. Pumpkins given away by realty firm.

1	4018	Article: "Four tons of pumpkins available in 14th Giveaway," in 2 The Huber Heights Courier by Brian Trexler, on October 16, 2008 3 in Centerville, Ohio. Real estate agency using pumpkins for marketing since 1994.
4	4019	Article: "Fort Meigs Group Plans for Festival," in The Toledo 5 Blade on August 30, 1983 in Toledo, Ohio. GIO Realty using pumpkins for farming.
6	4020	Article: "A quarter century of changes," in The Toledo Blade by 7 Jon Chavez, on May 14, 1994 in Toledo, Ohio. GIO defined farming techniques in Ohio.
8	4021	Article: "Caught between a Rind and a Recall Watermelon 9 Promotion Proves a Lemon," in The Los Angeles Times by Daniel Akst, on July 06, 1985 in Los Angeles, California. Watermelons used for real estate farming.

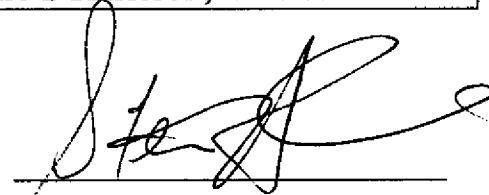
1 ***The 6000 Series Exhibits: Dictionary excerpts from 1983-1985***
 2 ***Trade Dictionaries***
 3

4
 5 The 6000 Series Exhibits contain two 1983 dictionary excerpts that contain
 6 definitions for the words 'farm', and 'farming.' Also included is a 2007 dictionary
 7 excerpt containing the definition for the two word combination 'farm area.' Mr.
 8 Chan requests judicial notice of these dictionary definitions.

9 **TABLE OF DICTIONARY EXHIBITS**

Exhibit #	Exhibit Description
6000	Article: 'farm area,' in The Complete Real Estate Encyclopedia, by Denise L Evans, JD & O William Evans, in 2007.
6001	Article: 'farming,' in The Allen and Wolfe Illustrated Dictionary of Real Estate by Robert D. Allen & Thomas E. Wolfe, in 1983.
6002	Article: 'farm,' in The Illustrated "Dictionary of Real Estate and Appraisal by Henry S. Harrison & Julie S Harrison, in 1983.

15 Dated the 20th of June, 2010



16
 17 Steven A Chan
 18

19 American Flag Manufacturer
 20 720 Center Street
 21 Costa Mesa, CA 92627
 22 949-650-6698
 23 2viavr@gmail.com

CERTIFICATE OF COMPLIANCE

Pursuant to Civil Local Rule 7.1D, this is to certify that the foregoing Defendants Request For Judicial Notice In Support Of Opposition To Motion For Summary Judgment complies with the font and point selections approved by the Court in Civil Local Rule 5.1C. The foregoing Request was prepared on computer using New Times Roman font (14 point).

Dated the 21th of June, 2010



Steven A Chan

American Flag Manufacturer

720 Center Street

Costa Mesa, CA 92627

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

1
2 THE FLAG COMPANY, INC. a
3 Georgia Corporation, Plaintiff,
4

5 STEVEN A CHAN, LLC (d/b/a FIVE
6 STAR FLAGS and/or VIA5), a
7 California Limited Liability Company,
8 And STEVEN A. CHAN, a California
9 resident Defendant
10

11 JUN 22 2010
12 CIVIL ACTION FILE NO.
13 1:09-CV-1880
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FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta
By: *James N. Hatten, Clerk*

Dated the

CERTIFICATE OF SERVICE

This is to certify that I have this day manually filed by placing into a package, sent
by Federal Express, the foregoing DEFENDANTS REQUEST for JUDICIAL
NOTICE IN SUPPORT OF OPPOSITION TO MOTION for SUMMARY
JUDGMENT with the Clerk of Court. The Clerk of Court will use the CM/ECF
system to automatically send e-mail notification of such filing to the following
attorneys of record:

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